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**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MPA - 203700

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 12, 2021, under Wis. Stat., §49.45(5), to review a decision by the Division of Medicaid Services (DMS) to deny Medical Assistance (MA) authorization for orthodontia, a hearing was held on January 5, 2022, by telephone.

The issue for determination is whether petitioner meets the criteria for orthodontia.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: Written submission of [REDACTED] DDS  
Division of Medicaid Services  
PO Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is an 11-year-old resident of Eau Claire County who receives MA.
2. On October 28, 2021, Dr. [REDACTED] [REDACTED] requested prior authorization on petitioner's behalf for orthodontia, PA no. [REDACTED]. By a letter dated November 3, 2021, the DMS denied the request.

3. Petitioner's "Salzmann" score was 21. There are no documented extenuating circumstances.

### **DISCUSSION**

Orthodontia is not an MA-covered service. Wis. Admin. Code, §DHS 107.07(4)(j). However, medical services provided to recipients under age 21 pursuant to Early and Periodic Screening, Diagnosis and Treatment (EPSDT) must be covered if the EPSDT health assessment and evaluation indicates that they are needed. 42 C.F.R. §441.56(c); Wis. Admin. Code, §DHS 107.22(4). Prior authorization is granted when the generic authorization criteria at §DHS 107.02(3) are met. The DMS has defined the criteria in its MA Providers Handbook, specifically related to dental issues, at Topic 2909. See the attachment to the DMS November 26, 2021 case summary letter. The policy requires a Salzmann Index score of 30, or the documentation of unusual circumstances that make the recipient's malocclusion handicapping.

The Salzmann score is a rating of the person's dental malocclusion, that is, how far from normal occlusion the person's teeth are. Petitioner's Salzmann score, as determined by the DMS dental consultant, is 21. Extenuating circumstances could be that, despite a low Salzmann, the malocclusion causes the person to have unusual difficulty eating or speaking, or the person has documented psychological problems caused by the abnormal occlusion.

There are essentially two means to determine that a request should be granted when the DMS determines a Salzmann score to be below 30. One way would be to provide evidence and argue that the Salzmann score actually is 30 or above. The other way is to provide evidence of extenuating circumstances.

There is no evidence that the DMS's determination of the Salzmann score was incorrect. There are no problems with eating or speaking. Petitioner's mother testified that she is undergoing esteem issues because of the misaligned tooth, but there is nothing documented at this point. While I can certainly see why petitioner would desire braces to straighten her teeth, I do not have the authority to disregard the department's approval criteria.

### **CONCLUSIONS OF LAW**

Petitioner does not meet the MA criteria for orthodontia because her Salzmann score is less than 30 and extenuating circumstances have not been shown to exist.

**THEREFORE, it is**

**ORDERED**

That the petition for review is hereby dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

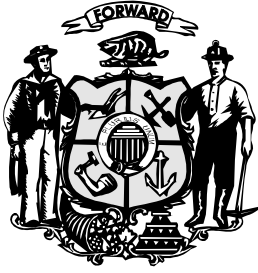
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 7th day of January, 2022

  
/s

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Brian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 7, 2022.

Division of Medicaid Services